IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 16TH NOVEMBER 2006 / 25TH KARTHIKA 1928

WP(C).No. 2610 of 2004(I)

PETITIONER:

KOCHI SERVICE CO-OPERATIVE BANK LTD.
NO.E.760, COBANK TOWER, MANAPPATTI PARAMBU,
KALOOR, KOCHI-17, REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.SIBY MATHEW
SRI.PHILIP J.VETTUKATTU

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
CO-OPERATION (C) DEPARTMENT, THIRUVANANTHAPURAM.

2. JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL), ERNAKULAM, KOCHI-682 016.

3. SMT.ANNAMMA C.M.,
THEKKANATTU HOUSE, THRIKKAKARA P.O.,KOCHI-682 011.

4. KERALA CO-OPERATIVE TRIBUNAL,
THIRUVANANTHAPURAM.

BY ADV. SMT.P.A.ANITHA
SPL.GOVT.PLEADER,SRI.B.S.SWATHIKUMAR
GOVERNMENT PLEADER P.N. SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).2610/2004

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1- TRUE COPY OF THE MINUTES OF THE GENERAL BODY MEETING OF THE KERALA TENNIKOIT ASSOCIATION DATED 25.6.2000

EXT.P2- TRUE COPY OF THE COMMON JUDGMENT DATED 19.12.2000 IN W.A. 3263/2000 AND 3266/2000 OF THIS HON'BLE COURT.

EXT.P3- TRUE COPY OF THE REPLY DATED 23.2.2001 BY THE BANK

EXT.P4- TRUE COPY OF THE REPLY DATED 26.2.2001 BY THE BANK.

EXT.P5- TRUE COPY OF THE LETTER DATED 24.2.2001 SENT BY SRI.V.RAJASEKHARAN NAIR TO THE FIRST RESPONDENTs

EXT.P6- TRUE COPY OF THE LETTER DATED 16.4.2001 ISSUED BY THE JOINT REGISTRAR.

EXT.P7- TRUE COPY OF THE JUDGMENT DATED 8.2.2002 IN O.P.NO.14391/01 OF THIS HON'BLE COURT.

EXT.P8- TRUE COPY OF THE COMPLAINT DATED 18.10.2000 PREFERRED BY SMT.ANNAMMA TO THE JOINT REGISTRAR.

EXT.P9- TRUE COPY OF THE ORDER DATED 10.6.2003 OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES(G).

EXT.P10- TRUE COPY OF THE ORDER DATED 30.8.2003 OF THE KERALA CO-OPERATIVE TRIBUNAL, TRIVANDRUM.

EXT.P11- TRUE COPY OF THE LETTER DATED 14.10.2003 ISSUED BY THE SECRETARY TO GOVT. TO THE PETITIONER.

(TRUE COPY)

P.A TO JUDGE

J.M.JAMES, J.

W.P.(C). 2610/2004

Dated this 16th day of November, 2006

JUDGMENT

Ext.P9 order of the Joint Registrar dated 10.6.2003 was challenged before the Tribunal. Through Ext.P10 order, the Kerala Co-operative Tribunal, Thiruvananthapuram, held that the 'petition not maintainable, since no arbitration proceedings and award passed in this case.' Therefore, the same was dismissed, as per the order dated 30.8.2003. Thereafter, the matter was taken up before the Government. By the time, the entire matter became time barred. Therefore, through Ext.P11 order, the Government had declined to admit the appeal and hence, the petition was dismissed as time barred.

2. The writ petitioner, Kochi Service Co-operative Bank Ltd., is before this Court praying to quash Exts.P9, P10 and P11 and also pray to direct the first respondent, Government of Kerala, to consider the appeal afresh on

merit.

3. I heard the arguments advanced by all the counsel concerned. The facts are mentioned in detail. The parties were before this court on number of occasions, as could be seen from Exts.P2 and P7 Judgments. There is a long pending dispute between the rival factions of the writ petitioner-bank. Therefore, an elaborate hearing on merit, is required.

4. Admittedly, as could be seen from Ext.P10 order, the appeal on Ext.P9 ought to have been filed before the Government, in respect of the Co-operative Tribunal, Thiruvananthapuram. Thus there is a contention from the part of the writ petitioner that it was bonafide agitating the matter before another forum. Therefore, considering such bonafide act of the writ petitioner, the period taken for bonafide agitating the matter before another forum, should be considered leniently and the delay could be condoned.

5. In the above circumstances, I am of the view that an opportunity should be given, without going into

the technicalities and strictly calculating the period of delay in such situations.

6. Therefore, I set aside Exts.P10 and P11 orders. The writ petitioner shall produce the copy of this judgment before the Government Secretary, who issued Ext.P11 order. On receipt of the same, the first respondent, Secretary, shall issue notice to the concerned parties, hear all of them and dispose of the matter, on merit.

7. This shall be done within two months from the date of appearance of the parties.

The writ petition is disposed of as above.

J.M.JAMES
JUDGE

mrcs